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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,202	08/31/2001	John Brooks Smith	7152	4500
7590	04/22/2005		EXAMINER	
JOHNS MANVILLE INTERNATIONAL, INC			RHEE, JANE J	
Legal Department P.O. Box 5108 Denver, CO 80217			ART UNIT	PAPER NUMBER
			1745	

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	09/945,202	
Examiner	SMITH ET AL.	
Jane Rhee	Art Unit 1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 18 October 2004.  
2a) This action is FINAL.                            2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-32 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_\_ is/are allowed.  
6) Claim(s) 1-32 is/are rejected.  
7) Claim(s) \_\_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Rejections Repeated***

1. The 35 U.S.C. 103(a) rejection of claims 1-9,11-25,27-33,54-63 as being unpatentable over Berdan II in of Weinstein et al. has been repeated as previously made in office action 7/29/2004.
2. The 35 U.S.C. 103(a) rejection of claims 10 and 26 as being unpatentable over Berdan II in view of Weinstein et al. and in further view of Allwein et al. has been repeated as previously made in office action 7/29/2004.

### ***Response to Arguments***

3. Applicant's arguments filed 10/18/2004 have been fully considered but they are not persuasive.

In response to applicant's argument that Berdan II doesn't disclose or suggest packing two types of fibrous insulation batts together in a package and clearly does not disclose or suggest packaging both uncut and precut fibrous insulation batts together in a package to facilitate the insulation of both standard width and non-standard width cavities, Weinstein et al. was combined with Berdan II to teach packaging both uncut and precut fibrous insulation batts together in a package to facilitate the insulation of both standard width and nonstandard width cavities. Berdan II teaches a plurality of resilient uncut fibrous insulation batt, and Weinstein et al. teaches a plurality of precut resilient fibrous insulation batt for the purpose of providing batts which can be used to either insulate standard width framework cavities or be quickly and easily reduced in width to fit less than standard width cavities without the need to cut the fibrous insulation

blankets at the job site with knives or similar cutting tools (col. 2 lines 18-24). Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Berdan II with a plurality of precut resilient fibrous insulation batt in order to provide batts which can be used to either insulate standard width framework cavities or be quickly and easily reduced in width to fit less than standard width cavities without the need to cut the fibrous insulation blankets at the job site with knives or similar cutting tools (col. 2 lines 18-24).

In response to applicant's argument that neither Berdan II and Weinstein et al. do not disclose or suggest an insulation package containing a stack of both uncut and precut resilient fibrous insulation batts wherein the stack of resilient insulation batts contained with in the package includes between 20% and 70% precut fibrous insulation batts and between 30% and 80% uncut fibrous insulation batts, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Berdan with between 30% and 80% of uncut insulation batts and between 20% and 70% of precut insulations batts depending on the amount of elongated cavities of standard distance and nonstandard distance are formed in the walls, ceilings, floors and/or roofs since Weinstein et al. teaches that it is common for 50% or more of the framing members in the exterior walls of these structures to be spaced apart at nonstandard distances that are less than the standard spacing for such framing members (col. 1 lines 39-42).

In response to applicant's argument Allwein et al. does not disclose or suggest individual insulation batts that are separated longitudinally, that have envelopes that are

separable longitudinally, or that have longitudinally extending tabs in the envelopes between the side or lateral tabs, applicant did not claim that the individual insulation batts are separated longitudinally, or that have envelopes that are separable longitudinally, or that have longitudinally extending tabs in the envelopes between the side or lateral tabs. Applicant claimed that that each of the facing sheets has a first pair of tabs adjacent lateral edges of the first major surface of and extending along the length of the resilient fibrous insulation batt to which the facing sheet is bonded, and each of the facing sheets bonded to one of the precut fibrous insulation batts has additional pairs of tabs, at least substantially aligned with the separable connector means of and extending along the length of the precut fibrous insulating batt to which the facing sheet is bonded and Allwein et al. teaches that each of the facing sheets has a first pair of tabs adjacent lateral edges of the first major surface of and extending along the length of the resilient fibrous insulation batt (figure 2 number 32 and 36) to which the facing sheet is bonded, and each of the facing sheets bonded to one of the precut fibrous insulation batts has additional pairs of tabs, at least substantially aligned with the separable connector means (figure 1 number 42) of and extending along the length of the precut fibrous insulating batt to which the facing sheet is bonded for the purpose of sealing the facing material together and reducing the likelihood of the dust and fibers becoming a possible irritant to the workers handling and installing the insulation assemblies (col. 4 lines 35-50).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Jane Rhee*

Jane Rhee  
April 19, 2005

*Gregg Cant*

**GREGG CANTELMO  
PRIMARY EXAMINER**